IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 6594 OF 2006

Divgi Metal Wires Pvt. Ltd..... Petitioner

versus

Regional Provident Fund Commissioner
and another. ..... Respondent.

Shri A.D.Patwardhan for the petitioner
Shri Sureshkumar for Respondent no.1.

CORAM; A.P. DESHPANDE, J.
DATED; 20TH JUNE, 2007

P.C.;

1. Rule. Rule made returnable forthwith. Taken up for final hearing by consent of parties.

2. The petitioner company carries on business of manufacture of gear and gear boxes and transmission machinery and has engaged about 300 workmen at its factory at Pune. It is the case of the petitioner that the petitioners started incurring losses from the year 1999-2000 and the petitioner was declared as SICK company in the year 2005, and a rehabilitation scheme was submitted. Though the petitioner has paid the employees contribution under the P.F.Act, the petitioner has failed to pay the employer's contribution on account of company's financial position not being good. The Asstt.

P.F.Commissioner, Pune passed an order under section 7-A of the Act and directed the company to deposit Rs.61,86,159/- towards employer's contribution and interest amounting to R.22,52,805/- upto the date i.e. 31-7-2006. Thus till the date of passing of the order by Asstt. P.F.Commissioner, the petitioner was liable to pay total amount of Rs, 84,38,964/-. The petitioner is also liable to pay interest at the rate of 12% per annum under section 7-Q, on the amount assessed as payable from the date of the order till the date of remittance.

4. Pending this petition, the petitioner has been making payments and as of now the petitioner has paid a sum of R. 48,30,272/- as shown in para 4 of the affidavit filed by the petitioner today. Perusal of the order dated 27-2-2007 reveals that the petitioner had undertaken to pay a sum of Rs. three lakhs every month and as assured to this court the petitioner has been regularly paying the said amount. The petitioner has candidly admitted the liability and has shown its readiness and willingness to pay the balance amount in instalments. Having regard to the totality of the facts and circumstances, I am of the clear view that granting instalments to the petitioner for paying the balance amount would be in furtherance of cause of justice. Hence I am of the view that petitioner

should be permitted to pay the balance amount in equal monthly instalments of Rs.4 lakhs until the entire amount is remitted. Petition is dispossed of accordingly. Rule made absolute in the above terms.

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